ON05954

P92-14
ENGLISH

Response

to the

"Open Local Government"

Draft Legislation Package

Municipal Government Structure Branch

Ministry of Municipal Affairs

Submitted by:

l'Association française des
conseils scolaires de l'Ontario

l'Association franco-ontarienne
des conseils d'écoles catholiques

Ontario Public School
Boards' Association

Ontario Separate
School Trustees' Association

Association française des conseils scolaires de l'Ontario

AFCSO represents 51 member boards, 21 of which are Catholic and 30 public. Forty-two of these boards operate under the provisions of Bill 75, two are French-language school boards and seven have French language advisory committees. Approximately 70,000 students attend French language schools within AFCSO's member boards.

Association franco-ontarienne des conseils d'écoles catholiques

AFOCEC represents twenty-three Roman Catholic Separate School Boards in Ontario. Seventeen of these member boards operate under the provisions of Bill 75, five are isolate boards and one has a French-language advisory committee.

Ontario Public School Boards' Association

OPSBA represents ninety-two public school boards of all sizes and from all regions of Ontario. It represents the interests of more than 1.2 million elementary and secondary students and more than 500,000 adult learners.

Ontario Separate School Trustees' Association

OSSTA is comprised of fifty-four Roman Catholic separate school boards in Ontario. Thirty-eight of its member boards are operating under Bill 75 and have minority-language sections. Of these boards, thirty-one have French-language minority sections and seven have English-language sections.

Roman Catholic separate boards educate about 500,000 students in the publicly funded schools of Ontario.

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ACKNOWLEDGEMENTS

This document is a joint project of Ontario's provincial school trustee and board associations.

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INTRODUCTION

(From "Open Local Government" draft legislation package, Dave Cooke, Minister of Municipal Affairs)

Over the last decade, there have been increasing demands from both members of the public and local government representatives for changes to the Municipal Conflict of Interest Act and to the Municipal Act provisions for open meetings and disposal of land, to make them fairer and more effective.

Complaints have been voiced that the Municipal Conflict of Interest Act places an unfair burden on the public to initiate prosecution of alleged conflicts of interest; that the open meeting provisions of the Municipal Act permit the conduct of councils' and boards' business in secret; and that surplus local government land has been sold without sufficient public notice.

In 1990, my Ministry circulated a Discussion Paper on Municipal Conflict of Interest to municipalities, local boards and other interested groups and individuals to elicit opinions on what changes should be made to the legislation to make it more just for the elected and the electorate.

Earlier this year, I appointed a consultation committee to examine all aspects of municipal conflict of interest. In July, 1991, this Municipal Conflict of Interest Consultation Committee, chaired by Cy Armstrong, reported its findings and recommendations, after conducting public meetings across the Province and analyzing over 200 submissions.

The Committee's report and the comments received were used as a basis for the development of new municipal conflict of interest legislation. At the same time, I have broadened the scope of this initiative to include the related issues concerning open meetings and disposal of surplus land, and thus to provide an "Open Local Government" draft legislation package.

This proposal is designed to enhance accountability and openness of local government by:

1) Revising municipal conflict of interest legislation to:

   - require disclosure of assets, liabilities and sources of income by all locally elected representatives; and

- establish a commission to investigate and prosecute alleged contraventions of conflict of interest legislation.

2) Establishing clear principles of openness for all municipal council and committee meetings, and for meetings of local boards, with exceptions which are limited and specific;

3) Providing minimum standards for disposal of real property owned by municipalities and local boards by:

   - ensuring that adequate public notice is given; and
   - ensuring that appropriate internal procedures are in place.

While these are different areas of legislation they share a number of themes that jointly represent a strong, accountable accessible local government. In addition, each component recognizes the differences between individual municipalities and local boards by permitting local discretion to open additional meetings and demand higher standards of their members, consistent with the purposes of the Acts. The proposed amendments to the legislation are described in greater detail in the explanatory notes which accompany the draft legislation.

In addition to the changes described above, I am proposing that the Ministries of Municipal Affairs and Education, in consultation with municipalities, school boards, local boards, and local government employee associations, develop a model code of conduct for employees. I am also proposing that the restrictions on local government employees who seek locally elected office also be reviewed.

This is a proposal. It is an indication of the direction in which the Government wishes to proceed. I am asking that you let us know by March 31, 1992, whether we are on the right track, recognizing that no system can be adopted if it is not workable.

The Government is committed to a strong, accountable, open and accessible local government.

Dave Cooke
Minister of Municipal Affairs

RESPONSE TO THE PROPOSAL

I. MUNICIPAL CONFLICT OF INTEREST LEGISLATION

(Main heading numbers below, refer to sections within the revised Act proposal)

1; Purposes of this Act;

The trustees of Ontario's publicly funded school boards are in agreement with the general purposes of the Act and accept the principle that higher standards of conduct should be expected of publicly elected officials.

There are concerns however, that the Government is attempting to apply a law originally conceived as applicable to town councils and making it fit the circumstances of school boards and that this fit is not particularly appropriate.

While school boards do involve themselves in matters of property acquisition and disposal as do municipal councils, the school boards' main focus of economic concern tends to be in the area of human resource costs. This being the case, the trustees are concerned that they may be compromising some of their views in order to accommodate the thrust of this initiative. The trustees are anxious to underline that a revised Act should focus more clearly on areas of conflict that pertain to the education sector. Areas of concern will become clearer as this response proceeds.

It is recommended that a revised Act be appropriately renamed as the "Local Government Conflict of Interest Act".

As the Act is presently written, and when reviewed in conjunction with the draft legislation on Open Meetings and on Disposal of Property, there is confusion whether school boards are "local boards" or not.

In addition, it is our belief that school boards by the nature of their existence, purpose and impact on their communities enjoy a status not unlike that of municipal councils. The recognition of this status should not be left to interpretation within a statute but should be clearly focused.

In order to facilitate the reading of a revised Act, and to convey our interest in being clearly identified as full participants in its meaning and application, **it is recommended that the Act be amended to specifically include the words "school board" wherever reference is made to "council and local board", as appropriate.**

2; In this Act;

Generally, the definitions contained in this part of the Act seem appropriate. The following suggested modifications and concerns however are noted;

i) throughout the definitions, the words "school board" have been added or deleted consistent with our thoughts expressed earlier.

ii) "advisor"; attention is drawn to the fact that the French equivalent "conseiller" has many more meanings than its English equivalent e.g. "conseiller (élu)" means trustee, "conseiller (pédagogique)" means consultant. **It is recommended that a different translation of advisor be considered.**

iii) "child"; since the modified Act speaks throughout of minor children and not of others, **it is recommended that the definition of "child" be amended to reflect this, and that "minor child" be further defined as one who has not yet reached the eighteenth birthday.**

iv) "school board"; **it is recommended that the definition of school board be amended to include all such definitions created within the Education Act.**

3 & 4; Pecuniary interest;

Generally, the issues addressed in this part of the Act cause us no concern, with one exception, sub-section (4)-(n);

i) the most significant part of a school board's operating budget (rule of thumb, 75 to 80%) consists of human resource costs. The overwhelming majority of these human resources are members of a trade union or of a professional association that bargains on their behalf.

We are concerned with the potential for conflict of interest for board members who are also members of these unions or associations.

ii) teachers or other board employees cannot be trustees of their own boards. They can nonetheless serve as trustees with coterminous, abutting or other boards, from which stems the common reference to the "teacher-trustee".

It is this teacher-trustee situation that is of concern to us and that we believe to be unique to the education sector.

Within the municipal sector, the situation of councillors being employees of municipalities other than the one they represent occurs as well. These people are occasionally referred to as "councillor-employees" or more specifically as "councillor-firemen" as the case may be.

While there are similarities with the teacher-trustee, it is our belief that the situations are not parallel due to the significantly lesser fiscal impact that the "fireman" might have on the whole of the municipal picture when compared to the fiscal impact of the "teacher" on the whole of the school board.

Furthermore, it is our experience that the majority of people who have over the years expressed concern about conflicts of interest within the education sector, have expressed these concerns in the context of the "teacher-trustee" situation.

iii) also, we are concerned about the manner of bargaining that sees us constantly referring to settlements in coterminous boards, abutting boards and other boards across the province that become the basis for negotiating positions.

We are concerned that such settlements might have been achieved in those other boards by the "teacher-trustee" serving on another board.

iv) further, the trustee who is related to a teacher or other employee of his/her own board or of another board, feels compelled under the current legislation, to declare a conflict whenever questions of compensation or working conditions are to be discussed at board meetings.

While the declaration may generally be appropriate, there are concerns that some trustees may be overly cautious in this regard because of lack of specificity of the Act in this area.

The guiding principle seems to have become, "if in doubt, declare a conflict". One should not have to rule oneself out of discussion because of ambiguity in the Act.

A frequent example of trustee concern for conflict is the situation where an adult child, employed by the trustee's board or by another board, resides with the trustee. Still another, is where an adult child does not reside with the trustee but is a school board employee of the trustee's board or of another board.

It is recommended that clarification be provided as to what constitutes a conflict and what does not; until such time as this is done, provisions of the current legislation dealing with parents and adult children should remain in effect for employment purposes within education.

v) There should be a review of existing provisions for school board employees and municipal employees regarding eligibility to hold local public office; subsequent recommendations pertinent to this area of concern could then be incorporated into the Education Act, or other appropriate legislation.

It is recommended that the Ministry of Municipal Affairs and the Ministry of Education strike a task force to examine further the issue of school board employee-trustee relationships as it relates to conflict of interest.

In addition to Ministry officials, such a task force should include an equal representation of elected officials and employees.

vi) **It is recommended that sub-section (n) of section (4) of the revised Conflict of Interest Act be declared as non-applicable to the education sector, until such time as the issues within that sub-section are further clarified.**

5 & 6; Duty of a Member;

Generally, the issues discussed in this part of the Act cause us no concern; minor modifications to the language used in these sections are noted in our "revised proposal".

7; Disclosure of Gifts;

Generally, the issues discussed in this part of the Act cause us no concern; minor modifications to the language used in these sections are noted in our "revised proposal".

8; Disclosure of Assets;

Many of the issues discussed in section (8) cause us concern. We question the need for disclosure of spouse and minor child assets and income, but recognise that if such disclosure has to be, then;

i) we remain concerned with any and all disclosures relating to minor children for reasons of pertinence, practicality and safety.

Unless minor children are board employees or earn substantial income that could somehow impact their parent's ability to act without bias as a board member, we fail to understand the need for such disclosure.

Also, reality is such that minor children do move frequently from one part-time job to another, from one part-time employer to another; would a trustee have to continually resubmit new disclosures to reflect these changes?

It is recommended that clarification be provided concerning the need to disclose the source of a minor child's income.

If disclosure of a minor child's income were required, it is recommended that the level exempted from need to disclose be at least at the level of the personal exemption for income tax filing ($6,280 for 1991). Any income below that level should not need to be disclosed. Changes in levels for future years could be dealt with by regulation.

If the minor child's income were substantially more than that amount, then for reasons of the child's safety, **it is recommended that absolute confidentiality about the income figure of minor children be assured** in order that a trustee-parent feel comfortable in the holding of public office, believing that their child's welfare is not at risk because of their position.

Similar concerns about a child's safety exist concerning disclosure of a child's assets, and so **it is recommended that absolute confidentiality about the assets figure of minor children be assured.**

ii) we have concerns about the disclosure of assets and liabilities.

Some individuals may have, for entirely personal reasons, assets held under another name (maiden name or other), the declaration of which could cause some personal discomfort.

It is recommended that if assets held under another name for personal reasons need be declared, then a means should be found to ensure protecting the personal nature of the declaration while satisfying the public interest.

In the declaration of liabilities, there is concern for the need to declare credit cards. These instruments today are used somewhat matter-of-factly by most in the conduct of their day to day affairs and thus are not considered by most as liabilities in the usual sense of that word.

If credit card debt need be declared, **it is recommended that the amount at which declaration of credit card debt is required, be raised to a level more in keeping with norms used in the credit card industry when setting credit limits, i.e. an amount approximating $5,000.** This limit should be for the total credit card debt to any one financial institution and not for the sum total of all credit card debt.

Furthermore, thought need be given to the need to resubmit disclosures if credit limits are temporarily exceeded; for some, it could become quite impractical to have to do so.

Under section (8), sub-section (4)-(d) the question of personal transportation is exempted as a need to declare. We express some concern that an individual being provided a leased vehicle under very favourable terms would not need to declare this possible benefit, either under this section or under earlier section (7) that dealt with disclosure of gifts.

iii) we are concerned with the submitting and filing of the disclosure statement itself. Our concerns are about privacy, need for details, the broad number of disclosure statement recipients and the potential inconsistency in the handling of these.

It is recommended that disclosures not be submitted to, nor filed with the secretary of the school board, but rather that such disclosures be sent to a central registry in Toronto, an approach parallel to that in use for disclosures by Members of the Legislature.

As for Members of the Legislature where a constituent must go to Queen's Park and not to a constituency office to be apprised of the contents of a disclosure statement, then similar rules should be made applicable to trustee declarations.

Also,**it is recommended that as for MPPs' declarations that are vetted for relevance and compliance with the Members' Conflict of Interest Act, a parallel system be instituted for trustee declarations,** perhaps by the Local Government Conflict of Interest Commissioner.

<u>9 to 14; Enforcement of Members' Duties;</u>

While we accept in principle much of what is covered within these sections, we do have some concerns about fairness of applicability within the education sector;

i) within the revised proposal that follows, **it is recommended that a sub-section (4) be created as an appropriate education sector parallel to sub-section (3) of section (11) that deals with municipal councillors.** (see revised proposal for recommended amendment)

ii) we are further concerned by the fact that a person requesting disclosure of a trustee's statement of declaration need not make his interest known to the trustee affected. This person's identity could remain unknown to the trustee if the Commissioner should choose to act directly on the questions raised. It is a concern to think that one could be found guilty of a contravention and penalised accordingly without ever knowing the identity of an accuser.

iii) also, "person" is not defined within the Act and we are concerned that any person might seek action against any trustee, without any real or direct interest in the trustee's situation.

It is recommended that "person" be defined as one of the board's electors and that the person's identity be made known to the trustee affected.

iv) we recognise the situation that exists today whereby the costs of launching an initiative regarding conflict of interest are prohibitive for most citizens. These costs likely act as a deterrent to many.

We are nonetheless concerned that changes suggested in this regard could lead to a significant increase in the number of frivolous and vexatious initiatives taken for less than reasonable grounds.

With this concern in mind, **it is recommended that consideration be given to setting by regulation, appropriate filing fees of an amount such as to cause one to reflect before filing, but not such as to deter what may be legitimate initiatives from some who may not be able to afford much.**

15; Duty of Advisor;

Within this section, we have two concerns that require clarification;

i) as reviewed earlier in the discussion of definitions, we are concerned about the use of the French equivalent to "advisor" namely the term "conseiller" and request that this issue be evaluated to ensure that no ambiguity exists.

ii) also, since the advisors referred to in this section are by definition, "appointed to", we are concerned that members of a French Language Advisory Committee who are quite properly thought of as advisors, are not covered here and likely should be. The concern stems from the fact that FLAC members are not "appointed to" but rather are both appointed and elected to their positions under section 262 of the Education Act.

16 & 17; Record of Oral Disclosure;

We have no particular concerns with the issues discussed here and the manner in which they are addressed.

18; Remedy for Lack of Quorum;

We have one concern with the issues discussed and it deals with minority language sections where the number of minority trustees is at the minimum number of three.

If in the case of these sections, two trustees were disabled from participating in a meeting by reason of provisions of this Act, one only would remain, not in conflict. That trustee would then represent one-third of the total number of members of the section and should be deemed to constitute a quorum.

It is recommended that with minority language sections where the minimum number of three trustees is the case, that the deemed quorum under this section of the Act be one.

19, 20 & 21; Offences;

We have no particular concerns with the issues discussed here and the manner in which they are addressed.

22 to 25; Local Government Conflict of Interest Commissioner;

While we would like to agree in principle at least with the idea of a Commissioner, we have reservations about the creation of still another bureaucracy where one need not necessarily
have to exist;

i) we are well aware of the situation of clogged courts. Because of this, we do not oppose the creation of this position.

ii) noting principles expressed earlier, we see merit in establishing a system parallel to the Members Conflict of Interest Act.

Were such parallelism established, the need for the new position of Commissioner might not be, since the position already exists within the Members Conflict of Interest Act. It is not at present a full time position; it is likely then able to absorb whatever additional work load is generated by the revised Local Government Conflict of Interest Act.

It is recommended that the Commissioner for the Conflict of Interest Commission also serve as the Local Government Conflict of Interest Commissioner.

iii) also, the fundamental principle of down-loading the cost of still one more provincial initiative to local government, runs counter to trustee initiatives in the area of better and more responsible local cost management and accountability.

Furthermore, the basic principle of funding without input into the management of the funds provided, runs counter to basic management principles. At the very least, were local government bodies to fund the office of the Commissioner, they would have to have approval over the office's budget.

Generally, other boards and commissions set up by the more senior government levels are funded by them and costs are not charged back to the user members. Some examples of these boards are;

- The Ontario Municipal Board
- The Environmental Assessment Board
- The Conflict of Interest Commission

iv) the mandate of the courts and other judicial systems is to make decisions for the common good.

v) the mandate of trustees is to provide education services to our respective communities and in today's climate of hard-to-come-by dollars, all of our economic activity must be focused on the achievement of that goal; we cannot allow divergence of our very limited financial resources to activities not directly related to this task.

It is recommended that if an office of the Commissioner for the Local Government Conflict of Interest Act is established, that it be funded by the provincial government as are other provincially established boards and commissions.

26 to 30; General;

Generally, the issues discussed in this part of the Act cause us no concern; minor modifications to the language used in these sections are noted in our "revised proposal". Also, two clarifications follow;

i) some years ago, when insurance costs were seen to rise substantially in Ontario, a vast majority of school boards shared a solution to this problem by establishing the Ontario School Boards' Insurance Exchange (OSBIE); the Exchange exists to assist boards in questions of insurance costs in general, and specifically as well in the areas described as pertinent to municipalities in section 27 sub-section (1)-(c).

ii) further, we endorse the concept of the establishment of codes of conduct for members and advisors and wish to see this pertain to conduct of staff as well. We are concerned about the relationship of senior staff compensation to that of staff in general and wish to provide senior staff with guidelines that would ensure that they remain beyond reproach in their dealings with other staff when negotiating salary and other agreements.

II. OPEN MEETINGS, DRAFT LEGISLATION

Provisions dealing with the issue of openness of meetings already exist within the Education Act. We are pleased to acknowledge the initiative of the Ministry of Municipal Affairs in wanting to have similar regulations for municipal councils and are supportive of this direction.

III. DISPOSAL OF PROPERTY, DRAFT LEGISLATION

As with openness of meetings, the question of disposal of property is well covered by provisions within the Education Act. Within these regulations, there is a specific order of preference of potential client that a board must address when disposing of property; within this order, municipalities rank first after other educational institutions.

It is recommended that a sub-section (4)-(c) be added to section (1) of the draft legislation that would grant a parallel right of first refusal to educational institutions in a manner consistent with the provisions of the Education Act.

SUMMARY OF RECOMMENDATIONS

1. It is recommended that a revised Act be appropriately renamed, the "Local Government Conflict of Interest Act".

2. It is recommended that the Act be amended to specifically include the words "school board" wherever reference is made to "council and local board", as appropriate.

3. It is recommended that a different translation of advisor be considered.

4. It is recommended that the definition of "child" be amended to reflect minor child, and that "minor child" be further defined as one who has not yet reached the eighteenth birthday.

5. It is recommended that the definition of school board be amended to include all such definitions created within the Education Act.

6. It is recommended that clarification be provided as to what constitutes a conflict and what does not; until such time as this is done, provisions of the current legislation dealing with parents and adult children should remain in effect for employment purposes within education.

7. It is recommended that the Ministry of Municipal Affairs and the Ministry of Education strike a task force to examine further the issue of school board employee-trustee relationships as it relates to conflict of interest.

   In addition to Ministry officials, such a task force should include an equal representation of elected officials and employees.

8. It is recommended that sub-section (n) of section (4) of the revised Conflict of Interest Act be declared as non-applicable to the education sector, until such time as the issues within that sub-section are further clarified.

9. It is recommended that clarification be provided concerning the need to disclose the source of a minor child's income.

   If disclosure of a minor child's income were required, it is recommended that the level exempted from need to disclose be at least at the level of the personal exemption for income tax filing ($6,280 for 1991).

10. It is recommended that absolute confidentiality about the income figure of minor children be assured.

11. It is recommended that absolute confidentiality about the assets figure of minor children be assured.

12. It is recommended that if assets held under another name for personal reasons need be declared, then a means be found to ensure protecting the personal nature of the declaration while satisfying the public interest.

13. It is recommended that the amount at which declaration of credit card debt is required, be raised to a level more in keeping with norms used in the credit card industry when setting credit limits, i.e. an amount approximating $5,000.

14. It is recommended that disclosures not be submitted to, nor filed with the secretary of the school board, but rather that such disclosures be sent to a central registry in Toronto.

15. It is recommended that as for MPPs' declarations that are vetted for relevance and compliance with the Members' Conflict of Interest Act, a parallel system be instituted for trustee declarations.

16. It is recommended that a sub-section (4) be created as an appropriate education sector parallel to sub-section (3) of section (11) that deals with municipal councillors.

17. It is recommended that "person" be defined as one of the board's electors and that the person's identity be made known to the trustee affected.

18. It is recommended that consideration be given to setting by regulation, appropriate filing fees of an amount such as to cause one to reflect before filing, but not such as to deter what may be legitimate initiatives from some who may not be able to afford much.

19. It is recommended that with minority language sections where the minimum number of three trustees is the case, that the deemed quorum under section (18) of the Act be one.

20. It is recommended that the Commissioner for the Conflict of Interest Commission also serve as the Local Government Conflict of Interest Commissioner.

21. It is recommended that if an office of the Commissioner for the Local Government Conflict of Interest Act is established, that it be funded by the provincial government as are other provincially established boards and commissions.

22. It is recommended that a sub-section (4)-(c) be added to section (1) of the draft legislation that would grant a parallel right of first refusal to educational institutions in a manner consistent with the provisions of the Education Act.

The following draft has been prepared by the Ministry of Municipal Affairs for consultation purposes only. It does not contain any legal opinion or interpretation of the Municipal Conflict of Interest Act, 1983, and does not necessarily reflect the final intention of the Government of Ontario with respect to amendment of that Act.

WE HAVE INSERTED SUGGESTED AMENDMENTS TO THE LEGISLATION TO REFLECT THE CONCERNS EXPRESSED AND AS A SUGGESTED MODEL FOR THE PROPOSED LEGISLATION. OUR RECOMMENDED CHANGES AND/OR ADDITIONS/DELETIONS TO THE DRAFT HAVE BEEN INSERTED WITHIN, IN BOLD, CAPITALISED AND UNDERLINED TYPE FOR QUICK RECOGNITION.

LOCAL GOVERNMENT CONFLICT OF INTEREST LEGISLATION

1. The purposes of this Act are,

(a) to preserve the integrity, independence and accountability of local government decision making;

(b) to recognize, define and provide a consequence for the conflicts of interest that arise when,

(i) members of councils, SCHOOL BOARDS and local boards, and the persons whom councils, SCHOOL BOARDS and local boards appoint to advisory bodies, have certain pecuniary interests in matters being considered by those councils, SCHOOL BOARDS, local boards, and advisory bodies, and

(ii) those members or persons do not comply with the duties prescribed for them under this Act; and

(c) to facilitate public enforcement of this Act through the LOCAL GOVERNMENT Conflict of Interest Commission.

2. In this Act,

"advisor" means a person, other than a member, appointed by a council, SCHOOL BOARD or local board to an advisory body;

"advisory body" means a body other than a council, SCHOOL BOARD or a local board, to which a council, SCHOOL BOARD or local board has appointed at least one person and includes a body composed of one person;

MINOR "child" means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family AND WHO HAS NOT YET REACHED THE EIGHTEENTH BIRTHDAY;

"Commissioner" means the LOCAL GOVERNMENT Conflict of Interest Commissioner appointed under section 22;

"community of interest in common with electors generally" means,

(a) a pecuniary interest in common with the electors within the area of jurisdiction and, if the matter under consideration affects only part of the area of jurisdiction, means a pecuniary interest in common with electors within that part, and includes,

*(b) a pecuniary interest by reason only of a person's occupancy of a residential property that is or may be affected by a decision of a council, **SCHOOL BOARD** or local board in common with the electors within the area or part of the area of jurisdiction;*

"controlling interest" means the interest that a person has in a corporation when the person beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding;

"council" means the council of a municipality other than an improvement district and means the board of trustees of an improvement district;

"elector" means,

(a) in respect of a municipality, or a local board thereof, other than a school board, a person entitled to vote at a municipal election in the municipality, and

(b) in respect of a school board, a person entitled to vote at the election of members of the school board;

"judge" means a judge of the Ontario Court (General Division);

"local board" means a ~~***SCHOOL BOARD,***~~ *(deleted) board of directors of a children's aid society, committee of adjustment, committee of management of a community recreation centre, conservation authority, court of revision, land division committee, public utilities commission, public library board, board of management of an improvement area, board of park management, board of health, police services board, planning board, district welfare administration board, trustees of a police village, board of trustees of a police village, board or committee of management of a home for the aged, suburban roads commission or any other board, commission, committee, subcommittee, body or local authority established or exercising any power or authority under any general or special Act in respect of any of the affairs or purposes,* ~~***INCLUDING SCHOOL PURPOSES,***~~ *(deleted) of a municipality or of two or more municipalities or parts thereof, but does not include a committee of management of a community recreation centre appointed by a school board, a local roads board, a local services board or a negotiating committee appointed under the Municipal Boundary Negotiations Act;*

"meeting" includes any regular, special, committee, ***COMMITTEE OF THE WHOLE,*** *subcommittee or other meeting of a council,* ***SCHOOL BOARD,*** *local board, or advisory body as the case may be;*

"member" means a member of a council, ***SCHOOL BOARD*** *or of a local board;*

"municipality" means the corporation of a county, city, town, village, township or improvement district or of a metropolitan, regional or district municipality or the County of Oxford and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, ~~***INCLUDING SCHOOL PURPOSES,***~~ *(deleted) in territory without municipal organization, but does not include a committee of management of a community recreation centre appointed by a school board, a local roads board or a local services board;*

"pecuniary interest" means an interest consisting of, measured in or related to money;

"school board" means a board of education, public school board, secondary school board, Roman Catholic separate school board, Protestant separate school board, ~~OR~~ (deleted) the Ottawa-Carleton French-language School Board ***AND ALL SUCH DEFINITIONS CREATED WITHIN THE EDUCATION ACT;***

"senior officer" means the chair or any vice-chair of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any such office;

"spouse" means a person of the opposite sex to whom the person is married or with whom the person is living in a conjugal relationship outside marriage.

3. *For the purposes of this Act, a person has a pecuniary interest in any matter in which a council,* ***SCHOOL BOARD,*** *local board or advisory body, as the case may be, is concerned, if,*

(a) the person has a pecuniary interest in the matter;

(b) the person or his or her nominee,

(i) is a shareholder in, or a director or senior officer of, a corporation or agency that does not offer its securities to the public,

(ii) has a controlling interest in, or is a director or senior officer of, a corporation or agency that offers its securities to the public,

(iii) is a member of a body,

(iv) is a partner or agent of a person, or

(v) is employed by a person or body,

that has a pecuniary interest in the matter; or

(c) *the person knows that the spouse,* ***PARENT, ADULT*** *or* ~~***ANY***~~ *minor child of the person or a private company as defined in the Securities Act controlled by the spouse,* ***PARENT, ADULT*** *or minor child has a pecuniary interest in the matter.*

4. *Sections 5, 6 and 15 do not apply to a pecuniary interest in any matter that a person may have,*

(a) *as a user of any public utility service supplied to the person by the municipality ,* ***SCHOOL BOARD*** *or local board in like manner and subject to the like conditions as are applicable in the case of other users;*

(b) *by reason of being entitled to receive on terms common to other persons any service or commodity or any subsidy, loan or other such benefit offered by the municipality ,* ***SCHOOL BOARD*** *or local board;*

(c) *by reason of purchasing or owning a debenture of the municipality ,* ***SCHOOL BOARD*** *or local board;*

(d) *by reason of having made a deposit with the municipality,* ***SCHOOL BOARD,*** *local board or advisory body, the whole or part of which is or may be returnable to the person in like manner as such a deposit is or may be returnable to electors generally;*

(e) *by reason of having an interest an any property affected by a work under the Drainage Act or under the Local Improvement Act;*

(f) *by reason of having an interest in farm lands that are exempted from taxation for certain expenditures under the Assessment Act;*

(g) *by reason of being eligible for election or appointment to fill a vacancy, office or position in the council,* ***SCHOOL BOARD,*** *local board or advisory body when the council,* ***SCHOOL BOARD,*** *local board or advisory body is empowered or required by any general or special Act to fill such vacancy, office or position;*

*(h) by reason only of being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality, **SCHOOL BOARD,** or local board;*

*(i) by reason only of being a member of a council, **SCHOOL BOARD,** local board, or advisory or other body when the membership is required by law by virtue of his or her office or results from an appointment by a council, **SCHOOL BOARD,** local board or advisory body;*

(j) in respect of an allowance for attendance at meetings, or any other allowance, honorarium, remuneration, salary or benefit to which the person may be entitled by reason of being a member or advisor or under a by-law passed pursuant to section 256 of the Municipal Act, or as a member of a volunteer fire brigade, as the case may be;

(k) by reason of having a pecuniary interest which is a community of interest in common with electors generally;

(l) by reason of membership on an English or French language section of a school board or an advisory body thereto if the board or advisory body is considering a matter related to language programming;

(m) by reason of membership in or volunteer activities for a non-profit organization, if the person receives no remuneration or financial benefit from the organization and the person's pecuniary interest is an interest in common with all other persons of the organization;

(n) ~~BY REASON ONLY OF MEMBERSHIP IN A TRADE UNION AS DEFINED IN SECTION 1 OF THE LABOUR RELATIONS ACT OR A PROFESSIONAL ASSOCIATION; OR~~ *(non-applicable to the education sector)*

(o) by reason only of an interest of the person which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the person.

Duty of Member

*5.- (1) Where a member, either on his or her own behalf or while acting for, by, with or through another person, has any pecuniary interest in any matter which is the subject of consideration at a meeting of the council, **SCHOOL BOARD,** or local board, the member,*

(a) if present, shall prior to any consideration of the matter at the meeting,

(i) orally disclose the interest and its general nature; and

*(ii) complete and file, in the prescribed form, a written disclosure of the interest and its general nature with the clerk of the municipality or secretary of **THE SCHOOL BOARD OR OF** the local board;*

(b) shall not participate in the discussion of, or vote on any question in respect of the matter;

*(c) shall not attempt whether before, during or after the meeting to influence the voting in any way, including by attempting to influence employees of the council, **THE SCHOOL BOARD** or local board;*

*(d) if absent, shall disclose the interest in accordance with clause (a) at the next meeting of the council, **SCHOOL BOARD** or local board that the member attends.*

(2) Where a meeting referred to in subsection (1) is not open to the public, in addition to complying with the requirements of that subsection, the member shall promptly leave the meeting or the part of the meeting during which the matter is under consideration.

*6.- (1) Where a member, either on his or her own behalf or while acting for, by, with or through another person, has any pecuniary interest in any matter which is the subject of consideration at a meeting of an advisory body to which the member has been appointed by a council, **SCHOOL BOARD** or a local board, the member,*

(a) if present,

(i) shall orally disclose the interest and its general nature before any consideration of the matter at the meeting;

*(ii) shall complete and file, at or before the next meeting that the member attends of the council, **SCHOOL BOARD** or local board that appointed the member, a written disclosure of the interest and its general nature with the clerk of the municipality or secretary of the **SCHOOL BOARD OR OF THE** local board;*

(b) shall not participate in the discussion of, or vote on any question in respect of the matter;

*(c) shall not attempt whether before, during or after the meeting to influence the voting in any way, including by attempting to influence **THOSE FUNCTIONING AS** employees of the advisory body; and*

(d) if absent, after becoming aware that any matter in which the member had a pecuniary interest was the subject of consideration at a meeting of an advisory body,

(i) shall disclose the interest in accordance with subclause a(i) at the next meeting of the advisory body that the member attends;

*(ii) shall complete and file, before or at the next meeting of the council, **SCHOOL BOARD** or local board that appointed the member, a written disclosure of the interest and its general nature with the clerk of the municipality or secretary of the **SCHOOL BOARD OR OF THE** local board.*

(2) Where a meeting referred to in subsection (1) is not open to the public, in addition to complying with the requirements of that subsection, the member shall promptly leave the meeting or the part of the meeting during which the matter is under consideration.

Disclosure of Gifts

7.- (1) A member shall not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office.

(2) Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.

(3) If a gift or personal benefit in subsection (2) exceeds $200 in value, or if the total value received directly or indirectly from one source in any twelve-month period exceeds $200, the member shall immediately file with the clerk of the municipality or the secretary ***OF THE SCHOOL BOARD OR*** *of a local board, as the case may be, a disclosure statement, in the form prescribed by the regulations, indicating the nature of the gift or benefit, its source and the circumstances under which it was given and accepted.*

Disclosure of Assets

8. (1) This section applies only to members of,

(a) the council of a county, city, town, village, township or of a metropolitan, regional or district municipality or the County of Oxford;

(b) a school board;

(c) a public utility commission; and

(d) a police village.

(2) Subject to subsection (3) every member shall, within sixty days of being elected or appointed, file with the ~~***MUNICIPAL CLERK OR THE SECRETARY OF THE SCHOOL BOARD, THE PUBLIC UTILITY COMMISSION OR THE POLICE VILLAGE, AS THE CASE MAY BE,***~~ *(replace with the following)* ***LOCAL GOVERNMENT CONFLICT OF INTEREST COMMISSION OFFICE IN TORONTO*** *a disclosure statement in the form prescribed by the regulations.*

(3) The disclosure statement shall contain,

(a) a statement of the assets, liabilities and financial interests of the member, the member's spouse and minor children, and private companies as defined in the Securities Act controlled by any of them;

(b) a statement of the source of any income the member and the member's spouse and minor children, and private companies as defined in the Securities Act controlled by any of them, have received in the preceding twelve months or are entitled to receive in the next twelve months; and

(c) any information that is prescribed by the regulations.

(4) The disclosure statement is not required to include,

(a) the monetary value of the assets, liabilities or financial interests or the amount of income received or entitled to be received from any source;

(b) assets, liabilities and financial interests having a value of less than $1,000;

(b-2)CREDIT CARD LIABILITIES OF LESS THAN $5,000 WITH ANY SINGLE FINANCIAL INSTITUTION;

(c) the source of income, if the income paid from the source has a value of less than $1,000, ***OR IF THE TOTAL INCOME OF AN INDIVIDUAL IS LESS THAN THE LEVEL OF THE PERSONAL EXEMPTION FOR THE FILING OF INCOME TAX*** *in any twelve-month period;*

(d) personal property used for transportation or for household, educational, recreational, social or aesthetic purposes;

(e) cash on hand or on deposit with a bank listed in Schedule I or II to the Bank Act (Canada), trust corporation or other financial institution in Ontario that is lawfully entitled to accept deposits;

(f) Canada Savings Bonds and other investments or securities of fixed value issued or guaranteed by any level of government in Canada or an agency of such government;

(g) registered retirement savings plans that are not self-administered;

(h) investments in open-ended mutual funds;

(i) guaranteed investment certificates or other similar financial instruments;

(j) annuities and life insurance policies;

(k) pension rights; and

(l) the following liabilities:

1. Unpaid income taxes.

2. Support payments.

(5) The member may with the consent of the Commissioner omit or delete from the disclosure statement the source of income received by a member's spouse or minor child, or by a private company as defined in the Securities Act controlled by the spouse or child,

(a) in respect of services that are customarily provided on a confidential basis; or

(b) if the possibility of serious harm to the spouse's, child's or company's business justifies a departure from the general principle of public disclosure.

(6) If any of the information disclosed under this section significantly changes, the member shall file a supplementary disclosure statement of the changes with the ~~***MUNICIPAL CLERK OR SECRETARY OF THE SCHOOL BOARD, THE PUBLIC UTILITY COMMISSION, OR THE POLICE VILLAGE, AS THE CASE MAY BE***~~ *(replace with the following)* ***LOCAL GOVERNMENT CONFLICT OF INTEREST COMISSION OFFICE IN TORONTO****, within thirty days of the change.*

Enforcement of Members Duties

9. The question of whether or not a member has contravened section 5, 6, 7 or 8 may be tried and determined by a judge.

10.-(1) If ~~***A PERSON***~~ *(replace with)* ***AN ELECTOR*** *has reasonable grounds for believing that a member has contravened section 5, 6, 7 or 8, the* ***ELECTOR*** *may apply, in the prescribed form, to the Commissioner requesting that the Commissioner investigate the alleged contravention.*

(2) ***AN ELECTOR*** *can only make application under subsection (1) within 90 days after the* ***ELECTOR*** *becomes aware that the member may have contravened section 5, 6, 7 or 8*

(3) An application under subsection (1) shall include a statutory declaration of the ***ELECTOR*** *containing,*

(a) the reasonable grounds for believing the member has contravened section 5, 6, 7 or 8; and

(b) a statement that the ***ELECTOR*** *became aware within 90 days of the application being made that the member may have contravened section 5, 6, 7 or 8,* ***AND***

(C) PAYMENT OF A REFUNDABLE FILING FEE.

(4) The Commissioner, after receiving an application under subsection (1), shall conduct such investigations of the alleged contravention as he or she considers necessary.

(5) For the purpose of conducting an investigation under this section, the Commissioner,

(a) has the right of access, at all reasonable hours, to all relevant books, papers, documents or things of the member and of a municipality, ***SCHOOL BOARD*** *or local board; and*

(b) has the powers of a commission under Part II of the Public Inquiries Act which Part applies to the investigation as if it were an inquiry under that Act.

(6) Upon completion of the investigation under subsection (4), the Commissioner,

(a) shall prepare a report outlining the apparent contraventions, if any, of section 5, 6, 7 or 8 by the member ***AND INCLUDING THE NAME OF THE ELECTOR,*** *and submit it to,*

(i) the member,

(ii) the ***ELECTOR*** *who applied under subsection (1), and*

(iii) the council of the municipality, ***SCHOOL BOARD*** *or local board, as the case may, on which the member holds office;*

(b) may, if the Commissioner considers it appropriate, apply to a judge for a determination of the question of whether the member has contravened section 5, 6, 7 or 8; and

(c) may authorize the ***ELECTOR*** *to apply to a judge for a determination of whether or not the member has contravened section 5, 6, 7 or 8.*

(7) No application shall be brought under subsection (6) after the expiration of two years from the time at which the contravention was, or is alleged to have been committed.

11.-(1) Where a judge determines that a member or a former member while he or she was a member has contravened this Act, the judge,

(a) shall,

(i) impose a fine on the member or former member of not less than $500 and not more than $5,000, or

(ii) in the case of a member, suspend the member, without pay and benefits, for a period of not less than 30 days and not more than 90 days;

(b) may, in the case of a member, impose both penalties under clause (a).

(c) may, in the case of a member, declare the seat of the member vacant;

(d) may disqualify the member or former member from being a member for a period of not more than seven years; and

*(e) may, where the contravention has resulted in personal financial gain, require the member or former member to make restitution to the party suffering the loss, or, where such party is not readily ascertainable, to the municipality, **SCHOOL BOARD** or local board of which he or she is a member or former member.*

*(2) A member suspended from a council, **SCHOOL BOARD** or local board under subsection (1) shall not during the period of the suspension,*

*(a) participate in any meeting of the council, **SCHOOL BOARD** or local board as a member or otherwise;*

(b) participate in any meeting of any body,

*(i) to which the member has been appointed by the council, **SCHOOL BOARD** or local board, or*

*(ii) on which the member is required by law to sit by virtue of the member's office on the council, **SCHOOL BOARD** or local board; and,*

(c) in the case of suspension from a council, participate in any meeting of any other council of which the member is also a member.

(3) Clause 38(c) of the Municipal Act, does not apply when the member is absent from meetings because of a suspension under this section.

(4) SECTION 206. (1) OF THE EDUCATION ACT, DOES NOT APPLY WHEN THE MEMBER IS ABSENT FROM MEETINGS BECAUSE OF A SUSPENSION UNDER THIS SECTION.

12.-(1) An appeal lies from any order made under section 11 to the Divisional Court in accordance with the rules of court.

(2) The Divisional Court may give any judgment that ought to have been pronounced, in which case its decision is final, or the Divisional Court may grant a new trial for the purpose of taking evidence or additional evidence and may remit the case to the trial judge or another judge and, subject to any directions of the Divisional Court, the case shall be proceeded with as if there had been no appeal.

(3) Where the case is remitted to a judge under subsection (2), an appeal lies from the order of the judge to the Divisional Court in accordance with the provisions of this section.

*13. The failure of any person to comply with section 5, 6 or 15 does not of itself invalidate any proceedings in respect of any such matter but the proceedings in respect of such matter are voidable at the instance of the municipality, **OF THE SCHOOL BOARD** or of the local board, as the case may be, before the expiration of two years from the date of the passing of the by-law or resolution authorizing such matter unless to make void the proceedings would adversely affect the rights of any person acquired under or by virtue of the proceedings who acted in good faith and without actual notice of the failure to comply with section 5, 6 or 15.*

14. Proceedings to suspend a member or to declare a seat vacant or to disqualify a member or former member for contravention of section 5, 6, 7 or 8, or to require a member or former member to make restitution where a contravention has resulted in personal financial gain, shall be had and taken only under this Act.

Duty of Advisor

*15.-(1) Where an advisor, either on his or her own behalf or while acting for, by, with or through another person, has a pecuniary interest in a matter which is the subject of consideration at a meeting of an advisory body to which the advisor has been appointed by council, **A SCHOOL BOARD** or local board, the advisor,*

(a) if present,

(i) shall orally disclose the interest and its general nature before any consideration of the matter at the meeting; and

*(ii) shall complete and file, before or at the next meeting of the council, **SCHOOL BOARD** or local board that appointed the member, a written disclosure of the interest and its general nature with the clerk of the municipality or secretary of the **SCHOOL BOARD OR** local board.*

(b) if absent, after becoming aware that any matter in which the member had a pecuniary interest was the subject of consideration at a meeting of an advisory body,

(i) shall disclose the interest in accordance with subclause a(i) at the next meeting of the advisory body that the member attends,

*(ii) shall complete and file, before or at the next meeting of the council, **SCHOOL BOARD** or local board that appointed the member, a written disclosure of the interest and its general nature with the clerk of the municipality or secretary of the **SCHOOL BOARD OR** local board.*

(2) Every person who contravenes this section is guilty of an offence.

Record of Oral Disclosure

16.-(1) Every oral declaration of interest and its general nature made under section 5 or 6 shall, where the meeting of the council, ***SCHOOL BOARD*** *or the local board is open to the public, be recorded in the minutes of the meeting by the clerk of the municipality or secretary of the* ***SCHOOL BOARD OR OF THE*** *committee or local board, as the case may be.*

(2) Every declaration of interest made under section 5 or 6, but not the general nature of that interest, shall, where the meeting is not open to the public, be recorded in the minutes of the next meeting that is open to the public.

(3) This section does not apply to the oral declarations of interest of advisors under section 15.

17.-(1) The clerk of a municipality and the secretary of ***A SCHOOL BOARD OR OF*** *a local board shall maintain a central register of disclosure for,*

(a) the members of the council, ***SCHOOL BOARD*** *or local board, as the case may be; and*

(b) advisors appointed by the council, ***SCHOOL BOARD*** *or local board, as the case may be.*

(2) The central register of disclosure shall contain,

(a) written disclosures of a pecuniary interest under sections 5, 6 and 15;

~~***(B) DISCLOSURE STATEMENTS AND SUPPLEMENTARY DISCLOSURE STATEMENTS OF ASSETS, LIABILITIES, FINANCIAL INTERESTS AND SOURCES OF INCOME UNDER SECTION 8; AND***~~ *(delete since now provided for under section (8), sub-section (2))*

*(****B****) disclosure statements of gifts or personal benefits under section 7.*

(3) All documents in the central register of disclosure are public documents and may be inspected by any ***ELECTOR*** *upon request at the office of the clerk,* ***OR*** *the secretary,****OR THE COMMISSIONER*** *as the case may be, during normal office hours.*

(4) Any person may make extracts from the documents and is entitled to copies of them upon payment for the preparation of the copies at such rate as the clerk or secretary, as the case may be, charges for the preparation of copies of other documents.

Remedy For Lack Of Quorum

18.-(1) Where the number of members who, by reason of the provisions of this Act, are disabled from participating in a meeting is such that at that meeting the remaining members are not of sufficient number to constitute a quorum, then, despite any other general or special Act, one-third of the total number of members of the council, ***SCHOOL BOARD,*** *local board or advisory body, as the case may be, shall be deemed to constitute a quorum, but such number shall not be less than two,* ***EXCEPT IN THE CASE OF MINORITY LANGUAGE SECTIONS WITH THE MINIMUM NUMBER OF THREE TRUSTEES, IN WHICH CASE THE NUMBER REQUIRED FOR QUORUM UNDER THIS SECTION CAN BE ONE.***

(2) Where in the circumstances mentioned in subsection (1), the remaining number of members who are not disabled from participating in the meeting is less than the quorum deemed by subsection (1), the council, ***SCHOOL BOARD,*** *local board or advisory body may apply to a judge without notice for an order authorizing the council,* ***SCHOOL BOARD,*** *local board or advisory body, as the case may be, to give consideration to, discuss and vote on the matter out of which the interest arises.*

(3) The judge may, on an application brought under subsection (2), by order, declare that section 5, 6 or 15 does not apply to the council, ***SCHOOL BOARD*** *or local board, as the may be, in respect of the matter in relation to which the application is brought, and the council,* ***SCHOOL BOARD,*** *local board or advisory body thereupon may give consideration same manner as though none of the members had any interest therein, subject only to such conditions and directions as the judge may consider appropriate and so order.*

Offences

19.-(1) A member, former member, advisor or former advisor shall not use information that is gained in the execution of his or her office and is not available to the general public to further or seek to further his or her interests or the interests of any other person.

(2) A member, former member, advisor or former advisor shall not provide information described in subsection (1) to any other person.

*20.-(1) No municipality, **SCHOOL BOARD** or local board shall employ, or engage as an agent or independent contractor any person who is a former member of the council of the municipality, **THE SCHOOL BOARD** or of the local board, as the case may be, until at least six months after the person ceases to be a member of the council, **SCHOOL BOARD** or local board.*

*(2) No person who is a former member of a council of a municipality, **SCHOOL BOARD** or of a local board shall become an employee, independent contractor or agent of the municipality, **SCHOOL BOARD** or local board, as the case may be, until at least six months after the person ceases to be a member of the council, **SCHOOL BOARD** or local board.*

21. Every person who contravenes section 19 or 20 is guilty of an offence.

LOCAL GOVERNMENT ***Conflict of Interest Commissioner***

*22.-(1) There shall be appointed, as an officer of the Legislative Assembly, a **LOCAL GOVERNMENT** Conflict of Interest Commissioner to exercise the powers and perform the duties set out in this Act.*

(2) The Commissioner shall be appointed by the Lieutenant Governor in Council on the address of the Legislative Assembly.

(3) The Commissioner shall hold office for a term of five years and may be reappointed for a further term or terms, but is removable at any time for cause by the Lieutenant Governor in Council on the address of the Legislative Assembly.

(4) The Commissioner may appoint officers of his or her staff to be Assistant Commissioners.

(5) The Commissioner and any Assistant Commissioner shall not, during their term of office, be a member of the Legislative Assembly, a council of a municipality, ***SCHOOL BOARD*** *or a local board.*

(6) The Commissioner shall be paid such remuneration and allowances as are fixed by the Lieutenant Governor in Council.

23.-(1) The Commissioner may employ such staff as he or she considers necessary for the efficient operation of the office and may determine their salary and remuneration and the terms and conditions of employment.

(2) The Commissioner may lease any premises and acquire any equipment and supplies necessary for the efficient operation of the office of the Commissioner.

(3) The salary of the Commissioner and the expenses required for the operation of the office are payable out of money appropriated for them by Legislative Assembly.

(4) The accounts and financial transactions of the office of the Commissioner shall be audited annually by the Provincial Auditor.

(5) ~~***THE PROVINCE SHALL RECOVER THE COSTS OF THE SALARY OF THE COMMISSIONER AND THE EXPENSES REQUIRED FOR THE OPERATION OF THE OFFICE OF THE COMMISSIONER FROM MUNICIPALITIES, AND LOCAL BOARDS IN THE MANNER PRESCRIBED.***~~ *(deleted)*

24.-(1) The Commissioner may initiate legal proceedings against any person in respect of a contravention of this Act.

(2) No legal proceeding shall be initiated for contraventions of sections 5,6,7 or 8 without the authorization of the Commissioner.

25. The Commissioner shall report annually upon the affairs of his or her office to the Speaker of the Legislative Assembly who shall cause the report to be laid before the Legislative Assembly.

General

*26.(1) A municipality, **SCHOOL BOARD** or local board may, with the approval of the Commissioner, pass bylaws to establish its own standards of conduct for members and advisors regarding conflict of interest.*

(2) The by-law establishing the standards of conduct shall be filed with the Commissioner.

(3) In the event of a discrepancy between a by-law and this Act, the more stringent standard of conduct prevails.

(4) Sections 9 to 14 and 24 apply, with necessary modifications, to the enforcement of standards of conduct established under this section.

*27.-(1) Despite section 252 of the Municipal Act, the council of every municipality **OR SCHOOL BOARD** may at any time pass by-laws,*

(a) for contracting for insurance;

*(b) for enabling the municipality **OR SCHOOL BOARD** to act as an insurer, despite the Insurance Act;*

*(c) for exchanging with other municipalities **OR SCHOOL BOARDS** in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the Insurance Act, to protect a member of the council, **SCHOOL BOARD** or of any local board thereof or an advisor who has been found not to have contravened section 5, 6, 7, 8 or 15 against any costs or expenses incurred by the member as a result of a proceeding brought under this Act, and for paying on behalf of or reimbursing the member for any such costs or expenses.*

*(2) The Insurance Act does not apply to a municipality **OR SCHOOL BOARD** acting as an insurer for the purposes of subsection (1).*

(3) Despite subsections 387 (1) and (2) of the Insurance Act, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in such securities as a municipality may invest in under subsection 163(2) of the Municipal Act.

(4) The money raised for a reserve fund of a municipal reciprocal exchange may be expended or pledged for, or applied to, a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange agree in writing and if section 386 of the Insurance Act is complied with.

(5) A local board or an advisory body has the same powers to provide insurance for or to make payments to or on behalf of its members as are conferred upon the council of a municipality ***OR SCHOOL BOARD*** *under this section in respect of its members.*

(6) A by-law passed under this section may provide that it applies to a person who was a member at the time the circumstances giving rise to the proceeding occurred but who, prior to the judgment in the proceeding, has ceased to be a member.

28.-(1) The Minister may prescribe the forms required for the purposes of this Act.

(2) The Regulations Act does not apply to forms prescribed under this section.

29. The Minister may make regulations prescribing ***AS*** ***REQUIRED BY VARIOUS SECTIONS OF THE ACT****:*

~~***(A) INFORMATION FOR THE PURPOSES OF CLAUSE 8(3)(C); AND***~~

~~***(B) THE MANNER OF RECOVERING COSTS UNDER SUBSECTION 23(5).***~~
(no longer required)

30. In the event of conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails.

CONSEQUENTIAL AMENDMENTS

Form 3 of the Municipal Act would be repealed and the following substituted:

FORM 3

DECLARATION OF ELECTED OFFICIAL

I, ..., do solemnly declare that I will faithfully and impartially, to the best of my ability, execute the office of ..... to which I have been elected in this municipality, and that:

1) I have not accepted and will not accept any payment or reward for the exercise of any partiality, dishonesty or other undue execution of this office;

2) I have read, understood and agree to comply with the provisions of the ***LOCAL GOVERNMENT*** *Conflict of Interest Act;*

3) I shall not use information that is gained in the execution of my office and is not available to the general public to further or seek to further my private interest; and

4) I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force as if made under oath.

The Declaration contained in subsection 209(1) of the Education Act would be repealed and the following substituted:

DECLARATION

I, ..., do solemnly declare that:

1) I am not disqualified under any Act from being a member of (name of board);

2) I will faithfully and impartially, to the best of my ability, execute the office of trustee;

3) I have not accepted and will not accept any payment or reward for the exercise of any partiality, dishonesty or other undue execution of this office;

4) I have read, understood and agree to comply with the provisions of the ***LOCAL GOVERNMENT*** *Conflict of Interest Act; and*

5) I shall not use information that is gained in the execution of my office and is not available to the general public to further or seek to further my private interest.

Declared before me at
.....in the
Province of Ontario..
.....this
.....day of
....., 19..

EXPLANATORY NOTES

OPEN MEETINGS

The Municipal Act currently provides that meetings of municipal councils are open to the public, with the exception of meetings of committees of council (including committee of the whole) and special meetings, both of which may be closed at council's discretion. These provisions also apply for meetings of most local boards.

The proposed amendments would require that regular, special or committee meetings of municipal councils and local boards be open to the public. The public's right to attend meetings would be limited only in the following circumstances:

- discretion to close a meeting for certain prescribed topics, including litigation, security, property acquisition and negotiation;

- mandatory requirement to close a meeting if discussing matters which must not be disclosed under the Municipal Freedom of Information and Protection of Privacy Act.

Municipal councils and local boards would be required to adopt procedure by-laws setting out the method of calling, conduct and proceedings for meetings.

Related amendments would be made to the Acts governing the regional, district, metropolitan municipalities and to the County of Oxford Act, to afford consistency with the Municipal Act provisions.

NOTE: Section numbers referred to in the draft legislation relate to Municipal Act Chapter M45 R.S.O. 1990

The following draft has been prepared by the Ministry of Municipal Affairs for consultation purposes only. It does not contain any legal opinion or interpretation of the Municipal Act, and does not necessarily reflect the final intention of the Government of Ontario with respect to amendment of that Act.

OPEN MEETINGS

DRAFT LEGISLATION

1. Section 55 of the Municipal Act is repealed and the following substituted:

55.-(1) In this section and section 55.1,

"local board" means a local board as defined in the Municipal Affairs Act, except municipal police services boards, library boards and school boards; and

"meeting" refers to a meeting of a council, a local board or a committee or subcommittee of a council or local board.

(2) Subject to this section, all meetings shall be open to the public.

(3) The head or other presiding officer may expel any person for improper conduct at a meeting.

(4) A meeting or part of a meeting may be closed to the public if the subject matter being considered relates to,

(a) the security of the property of the municipality or local board;

(b) personal matters about an identifiable individual, including municipal or local board employees;

(c) a proposed or pending acquisition of real property for municipal or local board purposes;

(d) labour relations or employee negotiations;

(e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;

(f) matters under the Municipal Boundary Negotiations Act or annexation of unorganized territory;

(g) a matter in respect of which a council, board, committee or other body has authorized a meeting to be closed under an Act of the Legislature or an Act of Parliament.

(5) A meeting shall be closed to the public if the subject matter relates to,

(a) the consideration of a request under the Municipal Freedom of Information and Protection of Privacy Act prior to final disposition of the request, if the council, board, commission or other body is designated as head of the institution for the purposes of that Act;

(b) a matter that the head of an institution is not permitted to disclose under the Municipal Freedom of Information and Protection of Privacy Act.

(6) If all or part of meeting is closed to the public, the clerk of the municipality or the recording official of the local board shall record in the minutes of the meeting where the decision to close is made,

(a) the time and fact of the holding of the closed meeting;

(b) the matter considered at the closed meeting;

(c) the clause or clauses in subsections (4) or (5) that were relied on to justify having the closed meeting; and

(d) the reasons why a closed meeting was necessary.

(7) The clerk of the municipality or the recording official of the local board, in making the minute referred to in subsection (6), shall not record any personal information as defined in the Municipal Freedom of Information and Protection of Privacy Act.

55.1.-(1) Every council and local board may adopt a procedure by-law for governing the calling, place and proceedings of meetings, and the conduct of members.

(2) The Minister may make regulations prescribing standards for the calling, place and proceedings of meetings of councils and local boards, and the conduct of members.

(3) In the event of a conflict between a procedure by-law passed under subsection (1) and a standard prescribed under subsection (2), the provision providing for greater access by the public to meetings or the more stringent provision governing the conduct of members prevails.

2. Section 57 of the Act is repealed and the following substituted:

57. The head of the council shall preside at all meetings of the council.

3. Section 58 of the Act is repealed and the following substituted:

58.-(1) The head of the council may at any time summon a specially scheduled meeting, and upon receipt of the petition of the majority of the members of the council the clerk shall summon a specially scheduled meeting for the purpose and at the time mentioned in the petition.

(2) If there is no by-law or resolution fixing the place of a specially scheduled meeting, that meeting shall be held at the place where the last regularly scheduled meeting was held.

4. Section 102 of the Act is repealed and the following substituted:

102. Every council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by this Act as may be deemed expedient and are not contrary to law.

EXPLANATORY NOTES

DISPOSAL OF PROPERTY

At present, the Municipal Act gives municipalities and their local boards, except boards of education, total discretion to sell real property, provided that the purchaser may lawfully buy the property and the council acted in good faith.

The proposed amendments would require the municipal council or local board to declare that the property to be sold is surplus to its need and available for sale; and obtain an appraisal of the value of the property to be sold, unless the property qualifies for an exemption, to be established by regulation. Exemptions would include:

- resale of expropriated land to original owner;
- sale under municipal small business assistance program;
- undevelopable land.

Municipalities may offer surplus lands to other public bodies within their boundaries before offering lands for public sale.

Municipal councils and local boards would be required to follow procedures setting out the internal process and public notice requirements for the sale of real property.

Depending on the outcome of the Government's consultation on provincial acquisition of land for housing, the Province may reserve the right to acquire surplus municipal and local boards' real property.

Related amendments would be made to the Acts governing the regional, district, metropolitan municipalities and to the County of Oxford Act, to afford consistency with the Municipal Act provisions.

NOTE: Section numbers referred to in the draft legislation relate to Municipal Act Chapter M45 R.S.O. 1990

The following draft has been prepared by the Ministry of Municipal Affairs for consultation purposes only. It does not contain any legal opinion or interpretation of the Municipal Act and does not necessarily reflect the final intention of the Government of Ontario with respect to amendment of that Act.

DISPOSAL OF PROPERTY

DRAFT LEGISLATION

1. Section 193 of the Act is repealed and the following substituted:

193.-(1) In this section,

"local board" means a local board as defined in the Municipal Affairs Act, except school boards;

"real property" includes land and buildings;

"sale" includes leases of twenty-one years or longer.

(2) Subject to subsections (4) to (6), every council and local board may by by-law,

(a) establish procedures governing the sale of property by public tender, public auction or otherwise as the council or local board considers is in the best interests of the public; and

(b) determine the time when, the manner in which, the price for which and the person to whom any of the corporation's property is to be sold.

(3) The determination of a council under subsection (2) as to the procedure for sale of, time when, manner in which, price for which or person to whom any property of the corporation that the council may lawfully sell, shall be sold, is not open to question or review by any court so long as the council may lawfully sell the property, the purchaser is a person who may lawfully buy it and the council acted in good faith.

(4) Before selling any real property, every council and local board shall,

(a) declare at a meeting open to the public the real property to be surplus and no longer required for its purposes; ~~AND~~ (deleted)

(b) obtain at least one appraisal of the fair market value of the real property; AND.

(C) GRANT A PARALLEL RIGHT OF FIRST REFUSAL,TO EDUCATIONAL INSTITUTIONS CONSISTENT WITH THE PROVISIONS OF THE EDUCATION ACT.

(5) The Minister may make regulations prescribing,

(a) standards of procedure for the sale by municipalities or local boards of real property by public tender, public auction, or otherwise;

(b) a class or classes of real property to which subsection (4) does not apply;

(c) the form and contents of a certificate of compliance with section 193; and

(d) the duties of the clerk of the municipality or the administrative head of the local board with respect to the certificate of compliance with section 193.

(6) In the event of a conflict between a procedure by-law passed under subclause 2(a) and a regulation under subsection (5), the provision providing greater access to information to the public prevails.

(7) Every council and local board may pass bylaws for the establishment and maintenance of a register of real property owned or leased by the municipality or local board, and for access by the public to that registry.

(8) The Minister may make regulations prescribing standards for the establishment and maintenance of registries of real property owned or leased by municipalities and local boards, and for access by the public to those registries.

(9) In the event of a conflict between a by-law passed under subsection (7) and a standard prescribed by regulation under subsection (8), the provision providing greater access to information to the public prevails.